

APPLICANTS:
Frank and Carla Rakowski
Jeffrey Hoilman

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5414

REQUEST: A variance to Section 267-20B
of the Harford County Code to allow an addition
within the 20 foot side yard setback

HEARING DATE: May 12, 2004

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Frank and Carla Rakowski
Jeffrey Hoilman

LOCATION: 2789 Park Road, Baldwin
Tax Map: 38 / Grid: 4E / Parcel: 92
Fourth Election District

ZONING: AG /Agricultural

REQUEST: A variance pursuant to Section 267-20B of the Harford County Code to
allow an addition within the 20 foot side yard setback (10 feet proposed).

TESTIMONY AND EVIDENCE OF RECORD:

For the Applicant first testified Jeffrey Hoilman of American Design and Build. Mr. Hoilman, representing Mr. and Mrs. Rakowski, indicated that Mr. and Mrs. Rakowski desired a variance to build a 22 foot x 12 foot sunroom. A sunroom, if built to those dimensions, would encroach approximately 10 feet into the 20 foot required side yard.

Mr. Hoilman indicated, in referring to the site plan of the property attached to the Staff Report as Attachment 2, that the southerly side of the property is accessed by the driveway and is occupied by the Applicants' garage. The front of the property is completely taken up with a 65 foot deep front yard setback. The rear of the property is extraordinarily shallow and pie shaped and is, in fact, taken up completely by the rear yard setback. Mr. Hoilman indicated that the property is unusually shaped, and there is literally no area in which any addition to the house can be built without violating existing setbacks.

Mr. Hoilman indicated that the sunroom, if approval were granted, would be finished with vinyl siding designed to match that of the existing house. The roof would be shed style, also matching the existing house.

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Mr. Rakowski then testified, emphasizing that his lot is unusually shaped. A sunroom, if built on any side of the house would encroach upon existing setbacks, due to the unique nature of the lot on which the house is constructed. Mr. Rakowski indicated that his next door neighbor is aware of the variance and has no opposition. Mr. Rakowski's lot in the area of the proposed sunroom is well landscaped. He sees no need for landscaping. Mr. Rakowski does not believe there would be any adverse impact on the neighborhood. There are existing, similar structures throughout his neighborhood.

Next testified Anthony McClune of the Harford County Department of Planning and Zoning.

Mr. McClune, as did the Staff Report, indicated the property is unique. The lot itself was created prior to existing zoning regulations, pursuant to Article 18.1 of the 1957 Code. The front yard setback is 65 feet, and would, in fact, be 65 feet under the existing Code. That setback consumes the entire front yard of the property. The rear yard setback is 50 feet, which consumes the entire rear yard of the property. Mr. McClune indicated that it is obviously impossible to build an addition without an impact on one or the other setbacks which were originally established for this house in 1957. There is no other appropriate or reasonable area for the sunroom except for the area requested.

Mr. McClune believes there will be no adverse impact on any adjoining neighbor or property. Because existing landscaping will be retained, Mr. McClune feels there is no need for the Applicant to construct additional landscaping.

There was no testimony or evidence presented in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

"Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

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(2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

The Applicants are requesting a variance to Section 267-20B of the Harford County Code which states:

“B. *Any residential use may be continued and may be enlarged without increasing the number of dwelling units therein, provided that no such addition shall extend closer to any lot line than existing building surfaces or the required yard dimensions for the district, whichever is less.*”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A review of the plot plan of the property, included as an attachment to the Staff Report, indicates that this lot is, clearly, highly unusual. It is a pie shaped property, with a large amount of road frontage, and an extraordinarily deep 65 foot front yard setback originally established under the 1957 Zoning Ordinance. The property would further appear to be non-conforming as far as the required 50 foot rear yard setback is concerned as the property is closer, under any calculation, to the rear lot line than 50 feet. There can be no construction to the southwest side of the property as the existing garage is on that face of the house. Accordingly, the only realistic location for such an addition would be in that area proposed by the Applicants. Indeed, there would be no impact in that area because of the existing screening.

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The Applicants have an unusual lot. It causes them practical difficulty as they are not able to build a sunroom, a structure common in the neighborhood, without the impact on one or the other of their existing setbacks. The most appropriate, and reasonable, side for the addition is as proposed by the Applicants. The variance requested is the minimum necessary to grant the Applicants the relief they seek.

CONCLUSION:

Accordingly, it is recommended the requested variance be granted, subject to the following:

1. The Applicant obtain all necessary permits and inspections for the sunroom.
2. That the design and construction of the sunroom conform, to the extent reasonably possible, to that of the existing dwelling.

Date: June 2, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner